

2004 WL 2677166

Only the Westlaw citation is currently available.

United States District Court,
E.D. Michigan, Southern Division.

Gregory J. BOWENS, et al., Plaintiffs,
v.
AFTERMATH ENTERTAINMENT,
et al., Defendants.

No. Civ.02-40170. | Nov. 10, 2004.

Attorneys and Law Firms

David K. Tillman, Tillman & Tillman, [Glenn D. Oliver](#), Detroit, MI, for Plaintiffs.

Herschel P. Fink, [Cynthia G. Thomas](#), Honigman, Miller, Thomas G. Mcneill, [Khalilah V. Spencer](#), Dickinson Wright, Laurie J. Michelson, Butzel Long, [John E. McSorley](#), Garan Lucow, Detroit, MI, [Howard Hertz](#), Eric A. Michaels, Hertz, Schram, Bloomfield Hills, MI, [Steven M. Hayes](#), New York, NY, Douglas G. McCray, Fabian, Sklar, Farmington Hills, MI, [Stephen M. Kelley](#), Kelley, Casey, St. Clair Shores, MI, [Jayne L. Jakubaitis](#), Bricker & Eckler, Cleveland, OH, Raymond L. Morrow, Kemp, Klein, [John J. Lynch, III](#), C. Edward Hildebrandt, Vandever Garzia, Troy, MI, Herschel P. Fink, [Cynthia G. Thomas](#), Honigman, Miller, Bingham Farms, MI, [M.J. Stephen Fox](#), Fox Assoc., Grand Rapids, MI, for Defendants.

ORDER GRANTING LEAVE TO FILE A LATE MOTION FOR SUMMARY JUDGMENT

[GADOLA](#), J.

*1 Before the Court is Plaintiffs' motion for leave to file a motion for summary judgment after the dispositive motion deadline. Defendants filed a response opposing this motion and Plaintiffs filed a reply. For the reasons stated below, the Court will grant the motion.

The latest scheduling order in this case, entered on May 19, 2004, required dispositive motions to be filed by August 31,

2004. Defendants filed a motion for summary judgment on August 30, 2004. The parties then stipulated to extending the deadline for Plaintiffs' response brief until October 15, 2004. On October 15, 2004, Plaintiffs filed a response to Defendants' motion for summary judgment and this motion for leave to file their own motion for summary judgment. Plaintiffs claim that while preparing their response brief, "it became apparent to plaintiffs that defendants were not entitled to summary judgment; rather, the facts overwhelmingly support summary judgment in favor of plaintiffs and against defendants." Mot. at 1.

Such a tardy realization and late briefing is disfavored and not to be commended. The Court determines, however, without expressing any opinion as to the merits of either parties' summary judgment motions, that if this case may be resolved on summary judgment, it would be more efficient to adjudicate the summary judgment motions simultaneously. [Federal Rule of Civil Procedure 16\(b\)](#) states that a "schedule may not be modified except upon a showing of good cause and by leave of the district judge." The Court considers the efficiency gained by addressing the summary judgment issues simultaneously to constitute good cause. Furthermore, the Court does not find that Defendants will be prejudiced by this delayed briefing, as this additional filing will not substantially delay the adjudication of this case. The Court will therefore grant Plaintiffs leave to file the motion for summary judgment. The Court notes that Plaintiff's proposed motion is contained within its response brief, which has already been accepted for filing.

ACCORDINGLY, IT IS HEREBY ORDERED that Plaintiffs' motion for leave to file a motion for summary judgment [docket entry 275] is GRANTED.

IT IS FURTHER ORDERED that Defendants may file a response brief to Plaintiffs' motion within TWENTY-ONE (21) DAYS of the filing of this order. Plaintiffs may file a reply brief within SEVEN (7) DAYS of service of Defendants' response.

SO ORDERED.

Certificate of Service

I hereby certify that on November 12, 2004, I electronically filed the foregoing paper with

the Clerk of the Court using the ECF system which will send notification of such filing to the following:

Thomas G. McNeill; Khalilah V. Spencer; Brian D. Wassom, and

I hereby certify that I have mailed by United States Postal Service the paper to the following non-ECF participants: *David Tillman; Glenn Oliver; Herschel Fink; M. Stephen Fox; John E. McSorley; Michael I. Endler; Jayne L. Jakubaitis.*

s/Ruth A. Brissaud

Ruth A. Brissaud, Case Manager

(810) 341-7845

End of Document

© 2015 Thomson Reuters. No claim to original U.S. Government Works.